

ing vote: Ayes, Mayor Yett, Councilmen Haynes, Nolen and Searight, 4 ;nayas, none, Councilman Avery absent.

The application of the Western Union Telegraph Company for permission to erect certain underground and aerial construction on Brazos and San Jacinto Streets, between East 6th and East 13th Streets, was granted, subject to the approval of an ordinance to be prepared and presented later by the City Attorney

Councilman Haynes moved that the City Attorney be instructed to prepare an amendment to the City Charter, fixing the salaries for mayor and councilmen at the same figure heretofore proposed by the Charter Commission. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Haynes, Nolen and Searight, 4; nayas, none, Councilman Avery absent.

However, Councilman Searight stated that the salaries should be fixed at \$4000.00 for the mayor, and \$3,500.00 for each councilman, for the amounts voted at this time will probably remain the same for the next ten years.

The Council then recessed.

ADJOURNED MEETING OF THE CITY COUNCIL:

Austin, Texas, August 25, 1923.

The Council was called to order by the Mayor. Roll call showed the following members present: Mayor Yett, Councilmen Haynes, Nolen and Searight, 4; absent, Councilman Avery.

The Mayor laid before the Council the following resolution:

RESOLUTION PROVIDING THAT NOTICE BE GIVEN OF THE INTENTION OF THE CITY COUNCIL OF THE CITY OF AUSTIN, TEXAS, TO SUBMIT TO THE QUALIFIED VOTERS OF THE CITY, FOR APPROVAL OR REJECTION, AMENDMENTS TO THE EXISTING CHARTER OF THE CITY OF AUSTIN.

Whereas, the City Council of the City of Austin deems it advisable at this time to submit to the qualified voters of the City of Austin certain amendments to the existing city charter; and

Whereas, the charter of said city has not been altered or amended within two years next preceding this date; therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

Section 1. That it is the intention of the City Council to pass an ordinance on the 15th day of September, 1923, for the purpose of submitting to the qualified voters of said city, for approval or rejection, at an election to be held for that purpose, the following propositions to amend the existing charter of the City of Austin:

FIRST PROPOSITION

Shall the existing charter of the City of Austin be amended in the particulars relating to elections, by striking out that part of Section 5 of Article II which provided that the City Council shall assign the Councilmen to the super-

intendency of the city departments, respectively; also by striking out Sections 1, 2, 3 and 4 of Article III, which sections provide for the holding of primary and general elections biannually; also by striking out Section 5 of Article III, which provides that all elective officers shall qualify at the first succeeding meeting of the City Council after the general election day; also by striking out that part of Section I of Article V, which provides that the term of office of Mayor and Councilmen shall be two years from date of election; also by striking out that part of Section 2 of Article VI, which provides for a special primary election whenever a vacancy shall occur in the office of Mayor; also by striking out that part of Section 3 of Article VI, which provides for a special primary election whenever a vacancy shall occur in the office of councilmen; also by striking out Section 22 of Article XV, which provides that the Mayor shall order primary and general elections and in the event of his failure or refusal to do so, the same may be ordered by the voters; also by renumbering existing Sections 6, 7 and 8 of Article III, respectively, as new Sections 8, 9 and 10 of said Article; and also by adding to the existing charter the following provisions, which shall be designated as Article III and entitled "Elections", and which additions shall contain seven sections, numbered one to seven, respectively:

ARTICLE III.

ELECTIONS.

Section 1. On the first Monday in April, A. D. 1923, and at each succeeding interval of two years thereafter on the first Monday in April, there shall be elected at large by the qualified voters of the City of Austin, at a general election to be held for that purpose, a Mayor and four Councilmen, which said four Councilmen shall be denominated as hereinafter provided, and all of whom shall hold their respective offices for a term of two years from the first day of May after each said election, and until their respective successors are elected and qualified, unless sooner removed as herein provided.

Section 2. Candidates for Mayor and each Councilman shall be voted for and elected separately. Candidates for Councilmen shall be designated and denominated and shall appear on the official ballot as candidates for: - (1) Councilman and Superintendent of Receipts, Disbursements and Accounts; (2) Councilman and Superintendent of Parks and Public Property; (3) Councilman and Superintendent of Streets and Public Improvements; and (4) Councilman and Superintendent of Police and Public Safety; in accordance with the statement which each such candidate shall file with the City Clerk. Each candidate shall designate on the announcement of his candidacy, or in his request to have his name placed on the official ballot, the particular place for which he desires to become a candidate.

Section 3. Any person desiring to become a candidate for Mayor or Councilman, shall at least ten days prior to said election file with the City Clerk a statement of his candidacy, which statement shall be verified, and shall show that such person is a resident and qualified voter of the city, the street and number of his residence, the particular office for which he is a candidate to be voted for at said election, that he is legally qualified under the general laws and the charter and ordinances of the city to hold such office, and that he requests that his name be placed on the official ballot as a candidate for such office.

Section 4. Immediately upon the expiration of the time of filing the statements of candidates, the City Clerk shall cause to be published for three successive days in all the daily newspapers published in the City of Austin, the names, in alphabetical order, of such candidates as they are to appear on the official ballot, and the City Clerk shall thereafter cause the official ballot to be printed and authenticated with the facsimile of his signature. Immediately above the names of such candidates for each office shall be placed the words: "Vote for one only"; and the voting for more than one candidate for one office shall void the ballot as to that office, but not as to any other offices. The official ballot shall be substantially in the following form:

OFFICIAL BALLOT OF AN ELECTION OF THE CITY OF AUSTIN, TEXAS,
HELD ON THE _____ DAY OF _____, 19_____.

FOR MAYOR
(Vote for one only)

FOR COUNCILMAN AND SUPERINTENDENT OF RECEIPTS, DISBURSEMENTS
AND ACCOUNTS.

(Vote for one only)

FOR COUNCILMAN AND SUPERINTENDENT OF PARKS AND PUBLIC
PROPERTY.

(Vote for one only).

FOR COUNCILMAN AND SUPERINTENDENT OF STREETS AND PUBLIC
IMPROVEMENTS

(Vote for one only.)

FOR COUNCILMAN AND SUPERINTENDENT OF POLICE AND PUBLIC
SAFETY.

(Vote for one only.)

The City Clerk shall cause to be delivered to the respective judges of election at each voting place and before the time of opening the polls, a number of official ballots equal to one and one-half times the number of poll receipts and exemption certificates issued to voters of such precinct.

Section 5. The City Council shall order all elections within the City of Austin, except as otherwise provided and fixed in this charter, and shall determine the places for holding the same, and the Mayor shall make proclamation thereof; and otherwise than is provided herein, all city elections and the manner of holding the same and the qualifications of the voters and making the returns thereof, shall be governed by the laws of the State of Texas governing general and municipal elections, so far as same may be applicable thereto. The same provisions shall apply to and govern the second general municipal election and all special elections herein provided, as govern the general municipal election insofar as same may be applicable; and in the event there shall be any failure on the part of the general laws of the State of Texas or this charter to provide for some feature of any city election, then the City Council shall have the power to provide for such deficiency. No informalities in conducting a city

election shall invalidate the same, if it be conducted fairly and in substantial compliance with the charter and ordinances of the city.

Section 6. At the general city election, the candidate for Mayor and each candidate for councilman, who shall receive a majority of all the votes cast for the office for which he is a candidate, shall be declared by the City Council to be elected to such office. The word "majority", when used in this charter, shall mean more than one-half of the total number of ballots cast for all the candidates for any particular office, or for any measure or question at such election. In the event any candidate for any of said offices fail to receive a majority of all the votes cast for all the candidates for such office, at such election, the Mayor shall on the first day following the completion of the official count of the ballots cast at said first election, issue a call and publish and post same as herein provided for a second election to be held in the city on the second Monday following the issuance of such call, at which said second election the two candidates receiving the highest number of votes for any such office to which no one was elected at said first election by receiving a majority of all votes cast thereon, shall be again voted for. The official ballot to be used in the second election shall be prepared by the City Clerk, and the name of no person shall appear thereon, unless he is a candidate for the office designated at said first election, and the two candidates who received at said first election the first and second highest number of votes cast for candidates for such office shall be the only persons entitled to have their names printed on said official ballot, in the order of their standing in the computation of the votes cast at said first election, as candidates at said second election for such office.

Section 7. The judges of election shall immediately upon the closing of the polls count the votes and ascertain the number of votes cast in their respective precinct for each of the candidates, and make returns thereof upon proper blanks to be furnished by the City Clerk, on or before twelve o'clock noon of the next succeeding day. Said returns shall be in quadruplicate, one of which shall be delivered to the Mayor, one to the City Clerk, one to be placed in the election box before sealing same, and one to be retained by the presiding officer of election. Immediately upon the delivery of the returns of such election to the City Clerk, he shall canvass said returns and publish the results thereof in some newspaper published in the City of Austin. Said canvass by the City Clerk shall be publicly made and the results thereof entered on the minutes of the City Council at its next regular meeting, but only after such canvass has been verified by a committee of the City Council appointed by the Mayor and report made thereon, which report shall be adopted by the City Council at a special meeting thereof held on the next day succeeding said election; and thereupon the City Council shall declare such candidates elected who have received a majority of all votes cast at said election.

SECOND PROPOSITION .

Shall Section I of Article VII of the existing charter of the City of Austin be amended so as to hereafter read as follows:-

Section I. The compensation of the Mayor shall be \$4,000.00 per year, payable in equal monthly installments ; and he shall give bond payable to the City of Austin in the sum of \$10,000.00, or such larger sum as may be required by ordinance for the faithful performance of the duties of his office.

THIRD PROPOSITION

Shall Section 2 of Article VII of the existing city charter of the City of Austin be amended so as to hereafter read as follows:- Section 2. The compensation of each Councilman shall be \$3,000.00 per year, payable in equal monthly installments; and each Councilman shall give bond payable to the Mayor and his successors in office in the sum of \$10,000.00, or such larger sum as may be required by ordinance for the faithful performance of the duties of his office.

FOURTH PROPOSITION

Shall the existing city charter of the City of Austin be amended by adding thereto a new article, to be numbered XVI and entitled Public Utilities and Franchises, and to contain three sections to be numbered Section 1, 2 and 3, respectively, said Section I to contain sub-sections to be numbered one to nine, inclusive, as follows:

ARTICLE XVI.

PUBLIC UTILITIES AND FRANCHISES.

Section 1. The City Council shall have power by ordinance to grant, amend, renew, extend and regulate all franchises or public utilities of every character and is granted full power:

(1) To prescribe and enforce reasonable rates and charges to be paid by the public for their services and commodities of every character whatsoever;

(2) To prescribe and enforce all rules and regulations reasonably necessary or expedient for securing to the public safe, efficient, faithful and continuous service from public utilities;

(3) To prescribe and require reasonable extensions of service by public utilities;

(4) To promulgate and enforce all such rules and regulations, as may be reasonably necessary for the procuring from public utilities by the city, without cost to it, of full information, showing the location, character, extent and condition of all fixtures of public utilities in, over or under the streets alleys or other public places of the city; and to regulate and control the location, relocation and removal of such fixtures;

(5) To require all public utilities, operating, either in whole or in part in the city, to keep vouchers, books and records, fully and accurately showing all facts necessary or relevant in the ascertainment and determination of what are from time to time the reasonable rates and charges for such utilities; and to inspect and audit the books and records of all public utilities, operating either in whole or in part in the city, at any reasonable time or times, through its own officers and agents, and to require the keeping of all such vouchers, books and records within the corporate limits of the City of Austin in all cases where such vouchers, books and records show the operations of public utilities which are located wholly within the City of Austin and its suburbs, and to require the production in the City of Austin of such vouchers, books and records of all other public utilities operating in the city, whenever in the judgment of the Council, it is necessary or advisable for the city to inspect or audit same;

(6) To prescribe and enforce such regulations as may be reasonably necessary and adequate for collecting from all public utilities in the city their

fair and just proportion of expenses of grading, paving, constructing, repairing, maintaining and lighting such portions of the streets, alleys, bridges, culverts, viaducts and other public places of the city, as may be occupied or used in whole or in part by such utilities, or to compel such public utilities to perform, at their own expense, their just share of such grading, paving, constructing, repairing, maintaining and lighting;

(7) To require any public utility, holding a franchise from the city to allow other public utilities the use of its tracks, poles, wires and other facilities on any bridge or viaduct in the city, and for a reasonable distance from the ends of such bridges and viaducts, in all cases where such joint use of such facilities shall, in the judgment of the City Council, be necessary or advisable for the public interest and welfare. Whenever a joint use of facilities shall be required by the City Council, the Council shall fix the reasonable rentals to be paid after notice to the parties at interest and hearing of the facts.

(8) To promulgate and enforce every other regulation and requirement, which may be reasonably necessary or expedient for the protection or enforcement of the interests of the public utilities, operating either in whole or in part in the city, or for securing adequate service from them, or for the exercise by the city of its control over its public traffic, streets, alleys and all other public places.

(9) To enforce by reasonable and appropriate penalties all requirements and rules lawfully enacted for the regulation of public utilities, or for carrying into effect and enforcing any other powers over public utilities herein granted to the city

Section 2. Whenever any public utility operating, either in whole or in part, in the city, shall attack in litigation the validity of any provision of any ordinance of the city, the burden of proof shall be on such utility to establish such facts as are relevant and necessary to show that such provision is invalid; and such attack shall not be permitted to prevail where any such utility is in default in keeping or producing vouchers, books or records as herein provided for.

Section 3. All ordinances granting, amending, renewing, or extending franchises for public utilities shall be read at three separate regular meetings of the City Council, and shall not be finally passed until thirty days after the first reading, and no such ordinance shall take effect until sixty days after its final passage, and pending such time the full text thereof shall be published once each week for two consecutive weeks in a daily paper published in the City of Austin, the expense of such publication to be borne by the proponent of the franchise. If at any time before such ordinance takes effect, a referendum petition or petitions shall be presented to the City Council, signed by not less than five hundred bona fide voters of the city, the Council shall submit the question of the granting, amending, renewing or extending such franchise to a vote of the qualified voters of the city in the manner provided for with reference to the referendum of other ordinances.

Section 2. That the Mayor is authorized and instructed to publish a copy of this resolution in the official newspaper of the City of Austin, as notice of the intention of the City Council to submit said amendments, and same when marked "Notice of intention to submit charter amendments", signed by the Mayor and attested by the City Clerk, and published as aforesaid according to the legal requirements, is to be due notice thereof.

The above resolution was adopted by the following vote: Ayes, Mayor Yett, Councilmen Haynes, Nolen and Searight, 4; naves, none, Councilman Avery absent.

The Council then adjourned.

Joel Hornsby
City Clerk

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, August 30, 1923.

The Council was called to order by the Mayor. Roll call showed the following members present: Mayor Yett, Councilmen Avery, Haynes, Nolen and Searight, 5; absent, none.

The reading of the Minutes of the last meetings was suspended.

The application of Davis Bros. to install one Fry Visible Gasoline Pump at 31st and Guadalupe Streets was read and Councilman Nolen moved that same be granted as recommended by the Safety Committee. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Avery, Haynes, Nolen and Searight, 5; nays, none.

The application of A. L. Erlich for permission to erect three galvanized storage tanks at the southeast corner of 5th and Comal Streets was read and Councilman Nolen moved that same be granted as recommended by the Safety Committee. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Avery, Haynes, Nolen and Searight, 5; nays, none.

The Council then adjourned.

Joel Hornsby
City Clerk

REGULAR MEETING OF THE CITY COUNCIL:

Austin, Texas, September 6, 1923.

The Council was called to order by the Mayor. Roll call showed the following members present: Mayor Yett, Councilmen Haynes, Nolen and Searight, 4; absent, Councilman Avery.

The Minutes of the last meetings were read and adopted by the following vote: Ayes, Mayor Yett, Councilmen Haynes, Nolen and Searight, 4; nays, none, Councilman Avery absent.

The application of D. A. Grover to erect a filling station at the corner of Sixth and San Antonio Streets was read and Councilman Haynes moved that permit be granted as recommended by the Safety Committee. Motion prevailed by the following vote: Ayes, Mayor Yett, Councilmen Haynes, Nolen and Searight, 4; nays, none, Councilman Avery absent.